

## **REMARKS**

This is a full and timely response to the non-final Office Action of June 28, 2006. Upon entry of this Second Response, claims 1-22 remain pending in this application. Reexamination, reconsideration, and allowance of the application and all presently pending claims are respectfully requested.

### **Response to Double Patenting Rejections**

Claims 1-22 are rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-24 of U.S. Patent No. 7,065,644. Submitted herewith is a terminal disclaimer pertaining to U.S. Patent No. 7,065,644, and Applicants, therefore, request that the double patenting rejections of claims 1-22 be withdrawn. See M.P.E.P. §804.02.

In filing the terminal disclaimer, Applicants rely upon the rulings of the Federal Circuit that the filing of such a terminal disclaimer does not act as an admission, acquiescence or estoppel on the merits of the obviousness issue. “In legal principle, the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection.” *Quad Environmental Tech. v. Union Sanitary Dist.*, 946 F.2d 870, 874 (Fed. Cir. 1991); *Ortho Pharmaceutical Corp. v. Smith*, 959 F.2d 936, 941-942 (Fed. Cir. 1992).


**CONCLUSION**

Applicants respectfully request that all outstanding objections and rejections be withdrawn and that this application and all presently pending claims be allowed to issue. If the Examiner has any questions or comments regarding Applicants' response, the Examiner is encouraged to telephone Applicants' undersigned counsel.

Respectfully submitted,

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